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ABSTRACT

In recent years there have been a number of proposals to extend resident tuition and fee status to certain groups of foreign nationals (E-1) in the State of Washington. An E-1 national is "any nonimmigrant alien entitled to enter the United States under and in pursuance of the provisions of a treaty of commerce and navigation between the United States and the foreign state of which he or she is a national ...." Information gathered revealed that: (1) the number of persons residing in Washington with E-1 visas is unknown but appears to be small; (2) there are only two students currently enrolled who have E-1 visas; (3) the fiscal impact of extending resident benefits is small; and (4) a bill such as that proposed would satisfy legal requirements. Recommendations were that the Council for Postsecondary Education endorse the proposed bill with the provision that such nonimmigrant aliens must meet all other residency requirements prescribed by law. (Author/KE)

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HE007573

Council for Postsecondary Education
State of Washington

A STUDY OF RESIDENT FEE STATUS FOR CERTAIN NONIMMIGRANT ALIENS

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JANUARY, 1976

A STUDY OF
RESIDENT FEE STATUS FOR
CERTAIN NONIMMIGRANT ALIENS

A Report in Response to
Senate Resolution 1975-144

Council for Postsecondary Education

Project Officer:
James F. Paige

January, 1976

Council for Postsecondary Education
State of Washington

January 30, 1976

The Honorable Gordon Sandison
Chairman
Senate Committee on Higher Education
Washington State Senate
409 Legislative Building
Olympia, WA 98504

Dear Senator Sandison:

In response to Senate Resolution 1975-144, I am happy to enclose the Council's report "A Study of Resident Fee Status for Certain Nonimmigrant Aliens".

At its January 21, 1976 meeting, the Council took the following action in response to S.R. 1975-144:

> The Council for Postsecondary Education endorses Senate Bill 2508 with the proviso that such nonimmigrant aliens as defined in S.B. 2508 must meet all other residency requirements prescribed by law.

If you have any questions concerning the report, or if I may be of assistance, please let me know.

Sincerely,

Patrick M. Callan
Executive Coordinator

PMC:jj
cc: Senator Nat Washington
Mr. J. A. Bricker

Walter F. Rivers, Jr., Chairman
Patrick M. Callan, Executive Coordinator
400 East Fifth Street
Olympia, Washington 98504
206 753-3210 SCAN 234-3210

[illegible]

A Draft Report in Response to SR 1975-149

In recent years there have been a number of proposals to extend resident tuition and fee status to certain groups of foreign nationals in the State of Washington. One of these proposals was Senate Bill 2508, introduced by Senator Washington during the 1975 legislative session.

Senate Bill 2508 (see appendix A) would have extended resident tuition and fee rates to "any nonimmigrant alien entitled to enter the United States under and in pursuance of the provisions of a treaty of commerce and navigation between the United States and the foreign state of which he or she is a national, such entry solely to carry on a substantial trade principally between the United States and the foreign state of which he or she is a national, and to the spouse and children of any such alien." The bill was heard by the Senate Committee on Higher Education but was not voted out of that committee.

On June 5, the Senate adopted Senate Resolution 1975-149, introduced by Senator Washington which directs the Council for Postsecondary Education to:

> Study the profiles of nonimmigrant aliens paying nonresident tuition and fees, the legal and fiscal implications of extending resident tuition and fee rates at institutions of higher education to such aliens, the visa classifications as defined by Title 8 section 1101(a)(15) under the Immigration and Nationality Act as to the Codes of the Laws of the United States of America, and any other problems which might arise if such rights are extended. [See appendix B for a copy of the resolution.]

In addressing the charge contained in SR 185, the staff has attempted to determine the number of nonimmigrant aliens holding visas with an F-1 classification who reside in the State of Washington. The F-1 visa is given to the type of foreign national described in SR 185. The U. S. Bureau of Immigration and Naturalization headquarters has advised us that from June 1977 to June 1978, 35,245 nonimmigrants holding F-1 visas entered the country. The Bureau was unable to advise us of the total who in the country at the number residing in any state. Only personal information is maintained by the Bureau and INS is on a national basis.

Although we were unable to determine the exact number of F-1 visa nonimmigrants presently residing in the state, a survey of the public colleges, universities and community colleges revealed that there are 144 students, both at the University of Washington, who are currently enrolled in public institutions. This is the data enrollment level we envisage in 1978-79 when an analysis of SR 1500 was prepared.

The staff also attempted to acquire information concerning the number of trade missions in the State of Washington. Contacts with the Department of Commerce and Economic Development and the Seattle Chamber of Commerce failed to provide any information on this subject. We are aware of the Japan Airlines flight training center at Moses Lake, however, due to testimony given at the hearing on SR 1500. The two students in operation there were released by that program.

In attempting to get as much information as possible, the staff interviewed Mr. Edward Kawasaki, Vice-President of the Japanese American Citizens League, a supporter of SR 1500. Mr. Kawasaki outlined his reasons for

support of university members. The mission is to foster a [illegible]

[illegible]

(1) [illegible] and use [illegible] to [illegible] private [illegible] and are not [illegible] [illegible] the [illegible] [illegible],

(2) [illegible] under this classification may [illegible], [illegible] and [illegible] [illegible], [illegible] the [illegible] [illegible] and all [illegible] to the [illegible] and officers of the university;

(3) [illegible] under this classification are not to be [illegible] [illegible] for the express purpose of [illegible] [illegible], [illegible] and are [illegible] for members. The notice [illegible] [illegible] [illegible]

FISCAL NOTE

Council on Higher Education — 343 (Code No.)
Responding Agency Title

REQUEST NUMBER 12

Concerning 2508 (SB NO.) ____ (HB NO.)

OPP&FM
Requested By

Reviewed By OPP&FM

Original ..... ☒
House Committee Amendment ☐
Senate Committee Amendment ☐
Engrossed House Bill ..... ☐
Engrossed Senate Bill..... ☐
Substitute ..... ☐

Bill Requested By: Executive ☐; Department ☐; Legislative Committee ____ (Title)

New Program or Activity ☒; Change in Existing Program or Activity ☐; Local Government Impact ☐

Title of Bill: An Act Relating to . . . Higher Education -- granting resident scatus for the purpose of tuition and fee payment to nonimmigrant alien entering U.S. under provisions of a treaty of commerce and navigation.

ESTIMATED STATE FISCAL IMPACT OF PROPOSED LEGISLATION

A. Revenue Impact by Fund and Source:	BIENNIAL IMPACT: FIRST YEAR Increase / (Decrease)	SECOND YEAR Increase / (Decrease)	TOTAL Increase / (Decrease)	SIX-YEAR IMPACT Increase / (Decrease)
Fund Title:				
Source: Title:				
State Bond Redemption & Bldg. Funds	(456)	(456)	(912)	(Undetermined)
Federal				
Local General Local Funds	(1,578)	(1,578)	(3,156)	
TOTAL	(2,034)	(2,034)	(4,068)	
B. Expenditure Impact by Source of Funds:				
Fund Title:				
State General Fund	2,034	2,034	4,068	Undetermined
Federal				
Local				
TOTAL				
C. Expenditure Impact Detail:				
FTE Staff Years				
Salaries and Wages				
Personal Service Contracts				
Goods and Services				
Travel				
Equipment				
Employee Benefits				
Grants and Subsidies				
Debt Service				
General Fund - Operating	1,578	1,578	3,156	Undetermined
General Fund - Replacement of Tuition Revenue Loss	456	456	912	
Capital Outlay: (Presumes appropriation to replace or adjustment of fee distributions).				
Land				
Buildings				
Improvements Other Than Buildings				
TOTAL	2,034	2,034	4,068	

D. Attach Explanation of Estimate
(Use Form FN-2)

Prepared By — Fiscal Analyst (Title) — 3-3-75 (Date)

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Form FN-2 (12-72).

FISCAL NOTE

REQUEST NUMBER 12

Council on Higher Education — Responding Agency Title
343 — Code No.
Concerning 2508 — SB NO.
HB NO.

March 3, 1975
Date Submitted

(1) The provisions of this legislation would enable all nonimmigrant aliens (E-1 visas) to pay tuition and fees at the resident rate.

(2) At present, there are only two students (both at UW) in E-1 visa category who attend Washington public institutions of higher education.

(3) Therefore, the first biennium cost of this legislation assumes the current number of students holding E-1 visas and current tuition rates. The six-year impact is not calculated because there is no method by which the immigration service or institutions of higher education can predict the impact which this legislation might have on future enrollments of nonimmigrant aliens.

(4) Calculation:

	University of Washington
Number of nonimmigrant alien students	2
Tuition Difference	x $228
	$456
Operating Difference	x $789
	$1,578
TOTAL	$2,034

APPENDIX D

OFFICE OF THE ATTORNEY GENERAL

SLADE GORTON ATTORNEY GENERAL
TEMPLE OF JUSTICE OLYMPIA, WASHINGTON 98504

October 21, 1975

MEMORANDUM

To: James F. Paige, Educational Planner
Council for Postsecondary Education

From: Benjamin H. Scharf
Assistant Attorney General

Subject: Resident Tuition Status for Nonimmigrant Aliens

A product of the last legislative session, Senate Resolution No. 144, mandates the Council for Postsecondary Education to study the "legal and factual implications of extending resident tuition and fee rates at institutions of higher education to [nonimmigrant] aliens." In Senate Bill No. 2508, introduced last session, new sections were added to chapter 28B.15 RCW which intended to reduce higher education tuition and fees to resident levels for nonimmigrant aliens and their spouses and children whose entrance into the United States was pursuant "to the provisions of a treaty of commerce and navigation between the United States and the foreign state. . . such entry solely to carry on a substantial trade. . . ." SB 2508, § 1.

The immediate background of this measure lies in the desire of dependents of Japanese nationals being trained to pilot and maintain commercial jet aircraft at Moses Lake to benefit from resident status at institutions such as Big Bend Community College and the University of Washington. Section 2 of the bill recites a sort of rationale for the measure, to-wit: The payment of local and state taxes by the aliens and their contribution to social and cultural activities in their communities.

Assuming that any aliens benefited by such a measure would otherwise be in compliance with the provisions of the Federal Immigration and Nationality Act, 8 U.S.C. 1101(a)(15), the remaining question is whether the reduction of tuition and fees would be legal and in pursuit of sound policy. Both matters may be considered concurrently.

It seems clear that the state has broad powers in the definition of "resident students." In RCW 28B.15.014 certain classes of students are defined as residents without regard to domicile or age. This section would be the most logical recipient of amendatory language defining certain nonimmigrant aliens as resident students. It should be noted that the categories of persons for whom the domicile requirements are waived include institution employees, military and federal employees stationed within the state and veterans whose final duty stations were within the state. These are persons whose service-connected livelihood has placed them in Washington on a more-or-less permanent basis.

However, the state is not privileged to discriminate without legitimate purpose or compelling interest as between those classes of students who are denied or permitted resident tuition benefits. This measure creates some obvious discriminatory patterns.

In the most apparent case, the measure would favor nonimmigrant aliens over U. S. citizens who have immigrated to Washington but have either inadequate indicia of domicile in this state or have not resided herein for the one-year period. U. S. citizens who are residents but not domiciles of this state obviously contribute both tax moneys and social worth to their communities. Another but more subtle discriminatory effect of this measure is to favor nonimmigrant aliens over the more general class of immigrant aliens. The latter category would include aliens, refugees, and the like who are immigrating to this country as a permanent home. It would seem that their need and qualifications for resident student benefits would exceed those of nonimmigrant aliens.

In that a measure of this sort really favors a class of nonimmigrant aliens and their dependents whose presence in this state is a result of employment through a foreign corporation, the question arises whether this class of students has an adequate need to enjoy resident privileges. Though Section 2 of the bill speaks in terms of "simple justice," the real question is whether there are other identifiable groups who would have greater need for a higher education at resident rates. It would appear that in comparison to some groups of foreign refugees and culturally disadvantaged U. S. citizens, the nonimmigrant aliens in the focal point of this bill are not without means and ability.

In conclusion, it would seem plain that state action to benefit a class of nonimmigrant aliens in this fashion could be legally accomplished through the suggested statutory amendment. However, the extra-legal effect of such a plan might be harsh if seen as

favoring a group of aliens temporarily residing in this state who apparently have comfortable incomes from foreign sources in a time of widespread economic distress.

I hope this discussion will be of assistance in responding to the legislative mandate. Please do not hesitate to contact me if further information is desired.

[redacted]

BRS:eg

cc: J. Arnold Bricker
Senate Research

[illegible]

Japanese American Citizens League

Pacific Northwest District Council

[illegible], 1971

[illegible]

Re: [illegible], Executive Coordinator
Council for Postsecondary Education
State of Washington
[illegible] East Fifth Street
Olympia, WA [illegible]

Re: Draft report, "A Study of Enrollment Fee Status for Certain [illegible]"

Dear Mr. [illegible]:

Thank you very much for your cover letter of November [illegible], 1971, concerning above draft report. Since I [illegible] comment today but due to circumstances [illegible] on my return, I was not able to do so until now.

This report appears to be well researched and prepared on the [illegible]. However, I would take exception to certain parts of the report and consider [illegible] solutions arrived at [illegible] have not been sufficiently developed to solve [illegible] upon us all.

The particular point on which I take exception is that [illegible] your making of "requiring reciprocal treatment" by which could [illegible] educationally, in a transitional way, the Washington state students [illegible] students and 5 university students) now attending schools in Japan. [illegible] state citizens and others in future would be required to pay [illegible] higher tuition fees if Japanese government officials choose to [illegible] problem viewed [illegible] indicated by the newspaper clipping from the Seattle [illegible] issue of The Daily, reporting that citizens agitating to make high schools [illegible] from other Prefectures pay higher tuition for attending Tokyo high schools [illegible] requiring reciprocal treatment of "tourist" students severely Washington [illegible] attending school in Japan would be treated in the same manner as we [illegible] treat students from Japan. As a result, those Washington students may [illegible] to attend to attend schools in Japan at higher tuition rates. Public [illegible] are often made by officials as well as private citizens about advancing [illegible] understanding between America and foreign countries by the increased [illegible] students -- this is what [illegible] is attempting to do on a reasonable [illegible] selective basis.

The area inefficiently developed in relation to the proper consideration [illegible] as regards to economic and commercial development while the profit [illegible] relations can be extremely neglected. This area of diplomatic relationship [illegible] foreign countries, more specifically with Japan, is the paramount responsibility [illegible] opinion, for the passage of SB 87[illegible] or similar legislation without consideration being given by the continued unequal, unilateral treatment by the State of Washington [illegible] of students from Japan which may in only a minor instance but does [illegible] with other "tourists," could [illegible] present educative relations into a major

[illegible]

[illegible]

[illegible]

total budgeted figure for the direct operating expenses for the Moses Lake Flight Crew Jet Training Center for the fiscal year April 1, 1975 -- March 31, 1976, is $558,780. This includes such items as fuel, landing fees, hanger rent, lease rent on transient living quarters for flight crews, operation of private bus line, contract labor for mechanics and technicians, etc. paid directly out of the Moses Lake budget. In addition, through the Tokyo office budget is expended an additional $255,435 for expenses connected with Moses Lake operations. Salaries paid to Moses Lake employees remitted from the New York office is $377,889 on which is paid for payroll taxes (Income tax withheld, Social Security taxes, Washington State Unemployment Compensation tax, Federal Unemployment Compensation tax, Washington State Industrial Insurance) an additional $108,456. The total of the above four figures is $1,300,560 which is the annual cash expenditure by Japan Air Lines paid almost in its entirety to business concerns and individuals who in turn pay Washington State taxes on their revenue or spend their wages and salaries into the local economy, thereby adding to the tax revenue of the State and local entities.

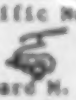
As a special item of interest to the Council for Postsecondary Education and others, is that in November, 1973, Japan Air Lines paid directly to the Dep't of Revenue in Olympia $282,500 as Use tax on a DC-8 airliner operated in Moses Lake for training purposes.

The payroll quoted above is being paid to 28 employees representing 28 families living in Moses Lake or its immediate vicinity. These people rent homes and a few are buying homes. In my visual experience, since the inception of flight training in November, 1968, these families on the average operate 1½ or more automobiles per family with an average stay in the state of Washington of 2-3 years.

From these statistics on just one company doing business in the state of Washington, the substantial amount of tax revenue realized by the State as well as its political subdivisions, amounts to a sizable figure many times in excess of the loss in postsecondary tuition revenue anticipated if E-1 Visa family students are granted resident student privileges.

again -- Sincerely,

JAPANESE AMERICAN CITIZENS LEAGUE
Pacific Northwest District Council



Edward M. Yamamoto, Governor
4502 Fairchild Loop, Grant County Airport
Moses Lake, WA 98837

EMY:ec